



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

**75 Hawthorne Street
San Francisco, CA 94105**

NOV 16 2012

Ms. Lisa Gibson
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922

Subject: Draft Environmental Impact Statement for the SunCreek Specific Plan Project, Sacramento County, California (CEQ # 20120309)

Dear Ms. Gibson:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the SunCreek Specific Plan Project pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

EPA provided comments on the Administrative Draft Environmental Impact Statement (ADEIS) on December 21, 2011, and provided comments on the Supplemental ADEIS on May 18, 2012. While we appreciate efforts by the U.S. Army Corps of Engineers to coordinate with our agency throughout the environmental review process, several of the key issues EPA has raised have not yet been addressed. We continue to have significant concerns about the potential impacts to Waters of the U.S. and air quality associated with the project, particularly when considered in concert with the multiple housing, transportation, and other development projects proposed in Sacramento County. These impacts represent a daunting cumulative burden that would be extremely difficult to mitigate.

We have rated the DEIS as Environmental Objections – Insufficient Information (EO-2) (see enclosed EPA Rating Definitions) based on significant impacts to aquatic resources and the potential inability to both comply with the 2008 Compensatory Mitigation Rule and achieve “no net loss of wetland functions and values.” Though the DEIS includes a 203.7 acre wetland preserve area as part of the Proposed Project Alternative, we note that the DEIS does not demonstrate that sufficient mitigation for impacts to Waters of the U.S. would be available for the SunCreek project. Please find our detailed comments attached, which discuss EPA’s remaining concerns with this proposed project, including the lack of clarity regarding the need for the project; cumulative air quality impacts; disclosure of criteria air pollutant emissions; and commitments to mitigation measures.

Our attached detailed comments also recommend incorporation of transit-oriented and sustainable design measures to significantly reduce long-term impacts to air, water, and other resources, while also lowering energy demand. These recommendations are consistent with the Sacramento Region Blueprint’s growth principles.

Please note that, as of October 1, 2012, EPA Headquarters no longer accepts paper copies or CDs of EISs for official filing purposes. Submissions after October 1, 2012 must be made through the EPA’s

new electronic EIS submittal tool: e-NEPA. To begin using e-NEPA, you must first register with the EPA's electronic reporting site - https://cdx.epa.gov/epa_home.asp. Electronic submission does not change requirements for distribution of EISs for public review and comment, and lead agencies should still provide one hard copy of each Draft and Final EIS released for public circulation to the EPA Region 9 office in San Francisco (Mail Code: CED-2).

We appreciate the opportunity to review this DEIS, and are available to discuss our comments. If you have any questions, please contact me at 415-972-3843, or contact Jen Blonn, the lead reviewer for this project. Jen can be reached at 415-972-3855 or blonn.jennifer@epa.gov.

Sincerely,



Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosures: Summary of the EPA Rating System
EPA Detailed Comments

Cc via email:

Terry Adelsbach, U.S. Fish and Wildlife Service

Mike McKeever, Sacramento Area Council of Governments

Project Need Statement and Growth Projections

Although section 1.4 is entitled *Statement of Project Purpose and Need*, this section of the Draft Environmental Impact Statement (DEIS) does not appear to explain the project need, which is critical for explaining why the federal agency and project proponent are undertaking the proposed action. An EIS must explain the “underlying purpose and need to which the [Lead] Agency is responding in proposing the alternatives, including the proposed action” (40 C.F.R. 1502.13). The need for new housing and commercial development is discussed in later sections of the DEIS, but a clear and comprehensive need statement for this particular project is absent.

Recommendations:

- Augment section 1.4 in the Final Environmental Impact Statement (FEIS) to clearly explain the project need in the context of other reasonably foreseeable development projects in the area, and clarify the remaining needs for additional housing and commercial development that the SunCreek project could help address. Please include a table which clearly provides population growth, housing, and jobs projections from all data sources that are used in the analysis, and ensure that data is used from the most recent Metropolitan Transportation Plan and Sacramento County General Plan. Display data on housing that would be provided by the SunCreek project as well as other reasonably foreseeable projects in the area.
- Update text throughout the document so that the FEIS includes housing and commercial development demand data from the most recent Metropolitan Transportation Plan and the Sacramento County General Plan.

Waters of the U.S. & Biological Species

The proposed project is located “within the Mather Core Area, an area identified by U.S. Fish and Wildlife Service (USFWS) in the *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon* (2005) as vital not only to the recovery of vernal pool tadpole shrimp, but to preventing the extinction or irreversible decline of the species” (p. 3.3-14). In addition, California has suffered between 80-90% loss of vernal pools, with a loss of over 137,000 acres of vernal pool habitat by 2005, as compared to habitat that existed in the baseline period of 1976-1995. In light of the sensitive habitat within the project area, EPA is concerned that the Proposed Project Alternative could directly impact approximately 24.19 acres of Waters of the U.S., including 14.5 acres of vernal pools.

Compensatory Mitigation

EPA notes that there appears to be an extreme shortage of appropriate mitigation sites in the Mather Core Recovery Area, and in surrounding nearby areas, to accommodate this project and other nearby proposed projects that are also seeking Clean Water Act (CWA) Section 404 permits. The listing of mitigation banks in Table 3.3-5 suggest that mitigation credits exist where few, if any, are actually available. Several of these banks are not in the immediate area (i.e. are located in Placer County) or are not approved by the U.S. Army Corps of Engineers (Corps), USFWS, and other authorities on the interagency review team. Additionally, EPA is aware that the credits in the South Sacramento County area are being discussed in three other regulatory contexts; (1) the Folsom South of Highway 50 Specific Plan Project has listed these banks as sources of mitigation credit, (2) the Mather Specific Plan Project listed these same banks, and (3) the South Sacramento Habitat Conservation Plan (SSHCP), itself, is in need of credits from these banks to meet its conservation goals. In addition, p. 3.3-38 states that,

“Mitigation for SunCreek impacts must be consistent with the [Corps’] *Record of Decision for the Sunridge Properties*.” Conditions for that Record of Decision (ROD) state that compensatory mitigation shall be “[l]ocated in the Mather Core Recovery Area, unless determined impracticable or inappropriate by the Corps.”

As stated in the DEIS, the project could use the SSHCP if it is available. It is, however, currently uncertain whether the SSHCP would be available. The DEIS does not demonstrate that, absent the SSHCP, necessary mitigation credits would be available; nor is EPA aware of sufficient available mitigation credits. Without proximate mitigation, the project may not be able to comply with the 2008 Mitigation Rule and the Sunridge ROD.

Recommendations:

- EPA recommends that the Corps conduct a comprehensive analysis of the mitigation resources remaining within the Mather Core Recovery Area in order to assess whether this project (and the others currently seeking CWA Section 404 permits in the Mather Core Recovery Area) have access to sufficient compensatory mitigation resources to move ahead in the absence of the SSHCP. In the FEIS, provide clear information and detailed locations on available, approved mitigation credits that could be used for this project and that comply with the Mitigation Rule and the Sunridge ROD.
- We are available to assist the Corps and the project proponents in determining compliance with the 404(b)(1) Guidelines and the Mitigation Rule. For further coordination and assistance with issues pertaining to Waters of the U.S., please contact Paul Jones, EPA Wetlands Office, at (415) 972-3470 or jones.paul@epa.gov.

Least Environmentally Damaging Practicable Alternative

EPA believes that the alternatives analysis in the DEIS does not contain sufficient detailed information for the Corps to identify the Least Environmentally Damaging Practicable Alternative (LEDPA) in compliance with the 404(b)(1) Guidelines. Disclosure of this information is critical to the decision-making process because only the LEDPA that achieves the overall project purpose, while not causing or contributing to significant degradation of the aquatic ecosystem, can be permitted by the Corps.

Recommendation:

The FEIS should include a detailed evaluation of the project alternatives in order to demonstrate the project’s compliance with the 404(b)(1) Guidelines and support the identification of the LEDPA by the Corps. The alternatives analysis should demonstrate that the proposed project is avoiding and minimizing damage to waters to the maximum extent practicable.

CWA Section 404(b)(1) Alternatives Analysis for Backbone Infrastructure

It is unclear why the CWA Section 404(b)(1) Alternatives Analysis (404 AA) for backbone infrastructure is being developed prior to 404 AA for the SunCreek project that would be used to derive the project LEDPA. This raises concern and potential challenges for decision-making because, typically, we would expect to see a 404 AA on the entire project from which the Corps would make a LEDPA determination first. Furthermore, the 404 AA for the Backbone Infrastructure provided in Appendix Y appears to improperly compare costs by using the Proposed Alternative as the baseline (rather than using the costs to meet the project purpose generally). Similar to our comments on the 404 AA provided in the DEIS for the Folsom South of Highway 50 Specific Plan Project, this approach to cost comparison is inconsistent with Corps Headquarters guidance in Regulatory Guidance Letter 93-2,¹ the Corps decision

¹ Regulatory Guidance Letter 93-02 is available at: <http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl93-02.pdf>

in the Old Cutler Bay 404(q) elevation,² and the discussion of costs in the preamble to the Guidelines. We also recognize that an analysis of practicability can use logistics and technical feasibility, in addition to cost. If such factors weigh on the practicability of alternatives in this case, we recommend those factors be presented in the FEIS in addition to information on costs.

Recommendations:

- In the FEIS, clarify why the 404 AA for backbone infrastructure is being developed prior to the 404 AA for the overall SunCreek project.
- Revise the analysis in Appendix Y of the FEIS so that other criteria, in addition to cost, are used to determine the practicability of the alternatives and their ability to achieve the basic project purpose.
- Revise p. 14 of Appendix Y to clarify whether the Corps intends to issue a formal purpose statement for the backbone infrastructure, separate from the purpose statement for the SunCreek project.

Current Information

The discussion of the SSHCP within the DEIS, as well as other information, is out of date.

Recommendations:

- Consult the SSHCP project team members at the Sacramento County Water Resources Department or the Sacramento County Community Development Department and update the FEIS to reflect the current status of the SSHCP project.
- Revise Table 3.0-2 to reflect that Excelsior Estates has changed names and is now called Jackson Township.

Air Quality

The project site is located in a federally designated nonattainment area for ozone and particulate matter smaller than 10 and 2.5 microns (PM10 and PM2.5). The site is also located in a federally designated maintenance area for carbon monoxide (CO). EPA is concerned with potential health impacts from the project's construction emissions, in addition to long-term emissions from induced vehicle miles traveled (VMT) from the development of 4,697 new housing units under the Proposed Project Alternative. We recommend further disclosure of impacts, additional mitigation measures, and clearer commitments for implementation.

Cumulative Air Quality Impacts

The proposed project would result in, "a cumulatively considerable incremental contribution to a significant cumulative impact from exposure of sensitive receptors," to both construction and operational emissions (p. 3.2-50). Several projects that will require Corps permitting under CWA Section 404 are proposed to be constructed concurrently with the SunCreek project in the Sacramento Valley Air Basin (SVAB). It is unclear whether all relevant projects in the SVAB have all been fully considered in the analysis. For example, the Capital Southeast Connector and New Brighton projects do not appear to be listed in Table 3.0-2.

² EPA Regional Offices and Corps Districts have the opportunity to raise individual permit or policy issues to their respective Headquarters Offices for guidance. In 1990, cost practicability and other issues in the Old Cutler Bay project in Florida were evaluated. The final guidance from Corps Headquarters is available at: http://water.epa.gov/lawsregs/guidance/wetlands/upload/2006_04_19_wetlands_CutlerBayGuidance.pdf

Recommendations:

- In the FEIS, verify that cumulative emissions are evaluated for potential contributions to violations of the National Ambient Air Quality Standards (NAAQS) from all applicable projects in the SVAB. The air quality cumulative impacts analysis should account for all reasonably foreseeable future actions, following 1997 guidance provided by the Council on Environmental Quality, entitled *Considering Cumulative Effects Under the National Environmental Policy Act*.
- Provide a table with criteria air pollutant and precursor emissions estimates from all applicable reasonably foreseeable future actions in the SVAB where data are readily available, including both the construction and operational phases of the projects.

Air Toxics Assessment, Disclosure & Mitigation

Page 3.2-12 discusses existing toxic air contaminants (TACs) in the project area, and lists the Kiefer Landfill and Triangle Rock Products, Inc as two nearby sources of TACs. The discussion concludes by stating, "Because quantitative health risk assessments (HRAs) were not required from either facility by [Sacramento Metropolitan Air Quality Management District (SMAQMD)], the SMAQMD's prioritization thresholds were presumably not exceeded by the facilities, and therefore it is presumed that neither facility results in substantial health risks to nearby areas." It is unclear how recently the determination that a HRA was not needed was made, and whether requirements may have changed in the interim. It is also unclear whether sensitive receptors were in the vicinity of these facilities when the determination was made, and whether their presence could have changed the determination.

Recommendations:

- Coordinate with SMAQMD to determine whether a HRA of siting the proposed project near the Kiefer Landfill and Triangle Rock Products, Inc would be appropriate. Summarize this coordination and conclusions in the FEIS.
- Provide quantitative values of expected diesel particulate matter emissions (with and without committed mitigation) in the analysis of temporary and short-term emissions from construction equipment on p. 3.2-42 and consider mitigation measures to keep sensitive receptors at a safe distance away from these emissions.

Criteria Air Pollutant Emissions Disclosure

Page 3.2-5 states, "Because the entire state is in attainment for SO₂ and most of the state is in attainment for lead (except for one area of Los Angeles County), SO₂ and lead will not be discussed further." EPA is concerned that SO₂ and lead emissions from the project are not disclosed. Table 3.2-4 summarizes daily construction emissions. While operational emissions are provided in Tables 3.2-5 through 3.2-9, and annual construction emissions are provided in Table 3.2-10, we note that lead, SO₂ and CO emissions are not included in any of these tables. We are also concerned that mitigated impact values are only provided for daily construction emissions that have a local standard. Further, it is also unclear which mitigation measures were used in determining the air emission estimates noted in Table 3.2-4 and Table 3.2-10. Only mitigation that is committed to as part of the project design or committed to in the Record of Decision can be used in general conformity applicability.

Recommendations:

- Fully assess the criteria pollutants and precursor emissions (including SO₂, lead, and CO) for potential direct, indirect, and cumulative impacts from each alternative.
- Update Tables 3.2-4 through 3.2-10 in the FEIS to include unmitigated and mitigated values for all criteria air pollutant and precursor emissions, including SO₂, lead, and CO. Clarify whether the mitigated values only incorporate mitigation that will be committed to as part of

the project design or in the ROD, and specify which mitigation measures were relied upon to calculate values. Ensure that summary tables in the FEIS are consistent with data provided in Appendix L.

- Add a table to the FEIS that compares operational emissions from each alternative, in units of tons per year, to de minimis thresholds. Include unmitigated and mitigated values for all criteria air pollutant and precursor emissions. Clarify whether the mitigated values only incorporate mitigation that will be committed to as part of the project design or in the ROD, and specify which mitigation measures were relied upon to calculate values.

General Conformity Assessment

The general conformity discussion on p. 3.2-14 states, “In some instances, a state will make the conformity determination under delegation from a Federal agency.” This is incorrect. While the state agency may, in some instances, conduct the conformity analysis, the lead Federal agency must make the conformity determination. The DEIS (p. 3.2-14 and p. 3.2-26) further states that the general conformity determination will be made in the Record of Decision. EPA cautions that providing information at that stage of the environmental review process does not allow for early identification and resolution of potential issues.

The DEIS (p. 3.2-14 and p. 3.2-48) cites the general conformity rule incorrectly. The general conformity rule was revised on April 5, 2010 (75 FR 17257). EPA deleted the provision in 40 CFR 93.153 that required Federal agencies to conduct a conformity determination for regionally significant actions where the direct and indirect emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area’s emissions inventory for that pollutant.

Recommendations:

- Revise the FEIS to accurately reflect the general conformity rule and the federal agency role in the conformity determination process.
- The FEIS should demonstrate that the direct and indirect emissions of the project conform to the State Implementation Plan and do not cause or contribute to violations of the NAAQS. We recommend that the Corps work closely with the SMAQMD on its conformity determination. We also recommend that the draft general conformity determination be included in the FEIS, either as a detailed summary or as an appendix.

Page 3.2-17 provides an incomplete description of the status of the NAAQS for ground-level ozone by stating:

On January 6, 2010, EPA proposed to reconsider the 2008 NAAQS for ground-level ozone. The proposed revisions are based on a reevaluation of the scientific evidence about ozone and its effects on people and the environment. EPA is proposing to strengthen the 8-hour “primary” ozone standard, designed to protect public health, to a level within the range of 0.060-0.070 ppm. EPA is also proposing to establish a distinct cumulative, seasonal “secondary” standard, designed to protect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges, and wilderness areas. EPA is proposing to set the level of the secondary standard within the range of 7-15 ppm-hours.

Recommendation:

To provide an accurate description of the status of EPA’s ozone standard, we recommend changing the above text into past tense and adding text to indicate that, after this reconsideration, EPA did not change the 2008 8-hour primary and secondary ozone standards of 0.075 ppm (daily maximum 8-hour concentration). EPA finalized the 2008 ozone designations, which were made effective July 20, 2012.

Transportation Emissions

VMT is already high near the project area, with several intersections operating at poor levels of service (p. 3.15-7). Adding housing and commercial development in the SunCreek project area would increase VMT and associated air emissions, especially when considered cumulatively with other development projects proposed for the area. EPA encourages measures to reduce air emissions from VMT, and we note that reducing VMT per capita is also a goal for Sacramento County (p. 3.4-10). We support plans to incorporate a bus rapid transit (BRT) system into the proposed design for Rancho Cordova Parkway, as described on p. 2-58, as well as plans for bicycle and pedestrian pathways through the project area.

Recommendations:

- To further minimize emissions from VMT and assist the region in complying with air quality standards, we recommend that the FEIS include measures within the project design to accommodate transit access. The neighborhood design should include transit route development that maximizes ridership, as well as early identification of bus stops so that they can more easily be incorporated into the streetscape.
- It is unclear if a grid street pattern is currently planned for the project area. If not, consider using a grid pattern to reduce the travel distance for vehicles, bikes, and pedestrians for local trips. Grid patterns can also make more trips possible to complete without use of a vehicle.

Commitments to Mitigation

Language used to introduce mitigation throughout the document refers to, “the project applicant for any particular discretionary development application” as the entity responsible for implementation. This language is confusing, and it is unclear which mitigation measures listed must be implemented as part of the project design, and which may, potentially, not be implemented.

Recommendation:

In the FEIS, revise text to clearly indicate which mitigation measures are being committed to as part of the project design, and which (if any) will only be implemented when certain conditions are met. Summarize information in Table ES-1, which lists all mitigation measures.

Assessment of Contaminated Groundwater

Page 3.8-4 introduces sites in the area with known groundwater contamination, which include Kiefer Landfill (.75 mi southeast), Inactive Rancho Cordova Test Site (1 mi north), and Mather Air Force Base (2.25 mi west), as well as nearby methyl tertiary butyl ether (MTBE) soil contamination from underground storage tanks. Page 3.9-10 provides additional information on the extent of the contamination, direction of plume movement, and monitoring activities. A more robust discussion is needed to disclose whether plumes may eventually migrate closer to the SunCreek project area, and potentially become a threat to residents. Page 3.9-55 states that groundwater use at full build out is not expected to result in substantial change in the movement of off-site contaminated groundwater plumes, but information is not provided to support this conclusion.

Recommendation:

In the FEIS, include a map depicting areas of potential groundwater contamination near the project area, including available information on plume migration direction and speed. Include an assessment in the FEIS of any potential future exposure in the SunCreek project area to contaminated groundwater through planned drinking water wells or through vapor intrusion from contaminated groundwater, through soil, and into inhabited spaces.

Sustainability

Creating an entirely new development provides ample opportunities to incorporate policies and designs that minimize demand for energy, minimize operational impacts, and create a high-quality living environment, with easy access to jobs, services, and recreation.

Recommendations:

- Consider obtaining Leadership in Energy and Environmental Design (LEED) for Neighborhood Development (ND) Certification for the project area or a portion of it. LEED-ND certification provides independent, third-party verification that a neighborhood development project is located and designed to meet high levels of environmentally responsible, sustainable development, with principles that are in line with the Sacramento Region Blueprint's growth principles.
- Consider obtaining LEED certification for homes, schools, and commercial buildings.
- Consider exceeding CALGreen standards in priority areas by meeting "optional" standards, including: pollutant control, indoor air quality, renewable energy, energy and water conservation, and low impact development.
- Consider recycled materials that could be used to replace raw materials for particular infrastructure components. Some options include tire-derived aggregate, crushed recycled concrete, recycled asphalt pavement, and rubberized asphalt concrete.
- Consider creating a policy to use locally sourced materials to reduce air emissions from transport.